IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3652 of 1986

with

SPECIAL CIVIL APPLICATION No 5348 of 1986

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJ. STATE CO-OP. LAND DEVP. BANK LTD

Versus

GUJ. STATE CO-OP LAND DEVP. BANK EMPLOYEES MAZDOOR SABHA

Appearance:

1. Special Civil Application No. 3652 of 1986
   MR MITUL SHELAT for MR SN SHELAT, Advocate for the Petitioner
   MR SHALIN MEHTA, Advocate for the Respondent
2. Special Civil Application No. 5348 of 1986
   MR SHALIN MEHTA, Advocate for the Petitioner
   MR MITUL SHELAT for MR SN SHELAT, Advocate for the Respondent

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CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI

Date of decision: 28/08/2003

ORAL JUDGEMENT

#. Both these petitions are directed against the order of the Industrial Tribunal, made on 31.1.'86, interpreting Clause-7(a) of the award made in Reference (IT) No. 171 of 1972, which related to payment for overtime work, on ad-hoc basis. That Clause-7 which is set out in paragraph-2 of the petition reads as under:-

"7) OVERTIME: In lieu of overtime payment effective from the accounting year beginning from 1st July, 1976 the Bank will pay an ad hoc amount to all the employees determined in the manner hereunder on or before 31st October every year:

a) The actual recovery percentage of the demand of the whole State for the year concerned shall first be ascertained.

b) An amount equivalent to the aforesaid percentage of the average wages per month received by the Employees during the year concerned shall be paid by the Bank to all the Employees.

c) For the purpose of computing the average monthly salary as per clause (b) aforesaid the total of the basic pay, dearness allowance and house rent allowance actually received during the whole of the year by the respective Employee shall be divided by twelve."

#. The controversy centers around the interpretation of Clause-7(a) under which the actual recovery percentage of the demand of the whole State for the year concerned is to be first ascertained. To be more particular, the controversy was as regards the meaning of the word "demand" used in the said sub-clause. During the course of the arguments, the learned counsel for both the sides have now agreed over the interpretation of the said Clause as stated hereunder and pray for the modification of the impugned award on these lines.

#. It is agreed that under Clause-7(a) of the Settlement, the expression demand of the whole State for the year concerned, would mean the total demand for that

year inclusive of the demand in respect of the past arrears. The recovery percentage is to be worked out on the basis of the figure of actual recovery made, in that concerned year, towards such total demand amount. Thus, if the total demand of the whole State for the year concerned, which means the year to which the total demand inclusive of past arrears relates, is Rs. 2,000/- and the actual recovery is Rs. 1,000/- for that year, as against the said total demand of Rs. 2,000/-, the recovery percentage would come to 50% of the total amount as per Clause-7(a) of the Settlement.

#. The above interpretation of Clause-7(a) is clearly warranted by the wordings of that Clause. The impugned award of the Industrial Tribunal, dated 31.1.'86 in Reference (IT) No. 99 of 1979 would stand modified accordingly. Both the petitions stand disposed of in the above agreed terms with no order as to costs.

[R.K. ABICHANDANI, J.]
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